

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/18/16
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAYMOND JUNIOR MILLER	:	
	:	
Plaintiff,	:	15-CV-7019 (VEC)(GWG)
	:	
-against-	:	<u>ORDER</u>
	:	
	:	
ST. LUKE's ROOSEVELT HOSPITAL CENTER,	:	
d/b/a Mount Sinai Roosevelt Hospital,	:	
	:	
Defendants.	:	
	:	
-----	X	

VALERIE CAPRONI, United States District Judge:

Plaintiff brings this action *pro se*, raising claims of gender discrimination against his former employer under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* and New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.* On September 16, 2015, this Court referred the action to Magistrate Judge Gorenstein for general pretrial purposes and dispositive motions. Dkt. 5. On October 29, 2015, Defendant moved to dismiss the Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), or in the alternative, for summary judgment pursuant to Federal Rule of Civil Procedure 56 on the basis that Plaintiff's claims are time barred. Dkt. 15. On April 1, 2016, Magistrate Judge Gorenstein issued a Report and Recommendation ("R&R") recommending that the Court consider Defendant's motion as a motion for summary judgment and grant it because Plaintiff did not file a charge with the Equal Employment Opportunity Commission within the statute of limitations, which bars Plaintiff's present lawsuit. Dkt. 31. The R&R also recommended that the Court decline to exercise

supplemental jurisdiction over Plaintiff's state law claims upon the dismissal of Plaintiff's federal claim. No party has objected to the R&R.

In reviewing a report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). When, as here, no party objects to the Magistrate Judge's report and recommendation, the court may accept the report and recommendation provided that "there is no clear error on the face of the record." *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); Fed. R. Civ. P. 72(b) advisory committee's note. Under a clear error standard of review, "[s]o long as there is a basis in the evidence for a challenged inference, [the court] do[es] not question whether a different inference was available or more likely." *United States v. Freeman*, 443 F. App'x 664, 666 (2d Cir. 2011) (quoting *Siewe v. Gonzales*, 480 F.3d 160, 168 (2d Cir. 2007)). Careful review of the R&R reveals that there is no facial error in its conclusions.

Finding no clear error, the Court adopts Magistrate Judge Gorenstein's R&R. Accordingly, Plaintiff's Title VII claim is dismissed with prejudice; Plaintiff's claim under state law is dismissed without prejudice because the Court declines to exercise supplemental jurisdiction over it. The Clerk of the Court is respectfully directed to close docket entry 15, to terminate the case, to mail a copy of this Order to Plaintiff, and to note mailing on the docket.

**SO ORDERED.**

**Date: May 18, 2016**  
**New York, NY**

  
**VALERIE CAPRONI**  
**United States District Judge**